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ABSTRACT

Part 154 of the Regulations of New York State's Commissioner of Education prescribes requirements for districts relative to the education of pupils with limited English proficiency. The guidelines provided here are to assist school districts in developing and implementing programs consistent with the law and regulations. Chapters address the following topics: the responsibility of the Board of Education; screening, identification, and assessment considerations; placement in instructional programs; program types (transitional bilingual and free-standing English-as-a-Second-Language (ESL) and educational strategies for each; student evaluation in ESL (speaking and reading), mathematics (in ESL, Spanish, and other languages), and native language arts (Spanish and bilingual reading programs); testing requirements; parent involvement; program management (coordination of funds, program planning and site selection, staff management, staff in-service training, and support services); exceptions and variances; and programs operated by the Board of Cooperatives Educational Services in districts with small populations. The text of the Commissioner's regulations, parts 117 and 154, and sample home language questionnaires in Chinese, English, French, Haitian Creole, Japanese, and Spanish are appended. (MSE)

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GUIDELINES FOR PROGRAMS UNDER PART 154 OF COMMISSIONER'S REGULATIONS FOR PUPILS WITH LIMITED ENGLISH PROFICIENCY

The University of the State of New York
THE STATE EDUCATION DEPARTMENT
Division of Bilingual Education
Albany, New York 12234
April 1990

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I. INTRODUCTION

Part 154 of the Regulations of the Commissioner of Education (CR Part 154) prescribes requirements for districts relative to the education of pupils with limited English proficiency (LEP). The guidelines included herein will assist school districts in developing and implementing programs for LEP students that are consistent with Education Law 3204 and CR Parts 117 and 154. The text of these regulations is presented in Appendix A.

Further assistance in developing, establishing and implementing an appropriate program may be obtained from the regional offices of the Division of Bilingual Education:

. Upstate Regional Office serving: Albany, Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Erie, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario, Orange, Orleans, Oswego, Otsego, Putnam, Rensselaer, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, Steuben, St. Lawrence, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Wyoming, and Yates Counties.

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II. BOARD OF EDUCATION RESPONSIBILITY

The regulations specifically describe certain responsibilities assigned to the boards of education of each school district relative to the education of pupils with limited English proficiency (LEP). These include the preparation of a written board policy, the completion of certain forms and reports and the provisions of certain assurances. Therefore, while the regulations provide flexibility in many areas, there are certain requirements and assurances which must be met as approved by the Regents. In an effort to streamline and simplify the process for the districts, those provisions which must be implemented as stated have been listed in an assurance form which must be signed by the president of the school board and the superintendent of the district.

A. Written Board of Education Policy

Each board of education, including the board of education of each community school district in New York City, must adopt and implement a written policy for the education of pupils with limited English proficiency (LEP). The policy must include:

1. the board's philosophy on the education of LEP pupils;

2. a description of the administrative practices and procedures to diagnostically screen and identify pupils with limited English proficiency;

3. a description of the administrative practices and procedures for the completion of a performance evaluation in content areas to measure the LEP pupil's academic progress;

4. assurances that LEP pupils will have access to appropriate instructional and support services and equal educational opportunities to participate in all school programs and extracurricular activities;

5. assurances that LEP pupils suspected of having a handicapping condition, will be referred to the committee on special education, that a bilingual multidisciplinary assessment will be conducted and that the provisions of Part 200 will be followed; and

6. districts wishing to claim State LEP Aid must also include assurances that all provisions of CR Part 154 will be followed.

B. Reports

A number reports must also be submitted to the Department of Education by the

board of education of each district:

1. a report by building of pupils initially identified and annually evaluated as being LEP in the preceding school year.

2. a report by building of the number of teachers and support personnel providing services to LEP pupils.

3. a description by building of the curricular and extracurricular services provided to LEP pupils.

4. a report on the results of the annual evaluation of LEP pupils including test data and any other data required by the Commissioner.

5. districts wishing to claim State LEP Aid will submit these additional reports:

   a. Comprehensive Plan
   b. CA-10 - Proposed Budget for the Operation of a State Aided Project
   c. District Report on the Coordination of Funds

III. SCREENING, IDENTIFICATION AND ASSESSMENT

Limited English proficient (LEP) students come from diverse ancestries and linguistic backgrounds. They may be foreign born or born in the U.S., but they come from a home where a language other than English is spoken. CR Parts 117 and 154 require that LEP students, entering the New York State school system for the first time or reentering the system with no available record of prior screening, be screened to determine if they are possibly LEP. Such Regulations further require that eligible students go through the initial identification and the annual assessment procedures to determine their level of English language proficiency.

A. Diagnostic Screening (CR 117)

Diagnostic screening is a preliminary method of distinguishing from the general population those students who may possibly be gifted, those students who may possibly have a handicapping condition and/or those who may possibly be LEP. These guidelines will only address procedures relative to the LEP population.

The provisions of CR Part 117 require that new entrants to the schools must be screened to determine if they are possibly LEP. New entrants are students who enter the school system for the first time or reenter with no available record of prior screening. Those students identified as possibly being LEP must be identified and assessed according to the procedures established in CR Part 154.

Timeline for Diagnostic Screening: In the case of new entrants, students should be screened prior to the school year, if possible, but no later than December first of the year of entry, or within 15 days of transfer of a pupil into a New York State public school when the entry takes place after December first of the school year.

Procedures for Diagnostic Screening: The diagnostic screening of a student who is possibly LEP must include a determination that the student is of foreign birth or ancestry, comes from a home where a language other than English is spoken and speaks that language at home.

The procedures to be followed for the screening of possibly LEP students should be completed, to the extent possible, by a trained professional who is able to communicate effectively with the parent or guardian and the student. The screening procedure should take place in a pleasant, non-threatening environment where the student and the parent feel welcome and comfortable. It must be kept in mind that both the parent and the student may be totally unfamiliar with schools in New York State, and the educational system, and the expectations the school may have. Nothing should be taken for granted or assumed. The screening process involves the following three steps:

Determine Whether Student is a New Entrant: The school personnel must ascertain if the student being enrolled is a new entrant to the system. This is determined by the review of records available, or the biographical data for a student whose profile or surname indicates the possibility that he or she speaks a language other than English. The parent or guardian of the new entrant must complete the home language questionnaire. If the student being enrolled is transferred from another school and there are no records available, the receiving school must make the determination as to whether or not the student is a new entrant.

STEP 1. Administer Home Language Questionnaire (HLQ)

At the time of enrollment, the Home Language Questionnaire, appearing in Appendix B must be completed by the parent or guardian of students identified as new entrants. The HLQ must be provided to parents or guardians in the language they understand. A completed questionnaire must be kept in the student's cumulative record file.

Students whose parents or guardians indicate that a language other than English is spoken at home; or that the pupil is foreign born and speaks a language other than English; or that the pupil, because of foreign ancestry, speaks a language other than English, must be assessed to determine their level of English language proficiency. After it is determined that the student comes from a home or ancestry where a language other than English is spoken, the student should be interviewed in English, and when possible, in the home language.

STEP 2. Conduct English Interview

The informal interview will help to determine if the student does speak a language other than English and will give a preliminary assessment of the degree of proficiency in the English language. If the student does not speak the language other than English at all, the student is not LEP and should not be tested for the purposes of initial identification. Students found to speak no English are LEP and must be placed in the appropriate bilingual or free-standing ESL program immediately. All other students must be tested further, as required under the initial identification process in CR Part 154.

B. **Initial Identification (CR 154)**

The initial identification is the process followed at the time of a pupil's enrollment in the New York State public school system for the first time or at the time of the pupil's reentry into the New York State public school system with no available record of prior screening to determine if the pupil is LEP.

Timeline for LEP Student Initial Identification: The initial identification process for LEP pupils enrolled at the beginning of the school year or at any other time should be completed within two weeks of the diagnostic screening. This will provide students maximum time in the appropriate instructional environment.

Procedures for Initial Identification: Once the diagnostic screening is completed, an English language assessment, as described in the following pages, must be conducted for the eligible students. The steps outlined below must be followed by districts outside New York City for the identification of eligible LEP students. The initial identification is completed at the time the student is first enrolled following the diagnostic screening. The annual assessment is completed once a year thereafter, until the student is no longer LEP. See Chart I on page 7 entitled "Steps in the Identification of Eligible LEP Students in Districts Outside of New York City."

STEP 3. Administer Oral English Proficiency Test

Students who demonstrate some English speaking ability during the informal interview must be assessed to determine the exact level of oral proficiency. The procedures recommended in the technical guide for the instrument chosen must be followed. Students scoring at or below the "cut-off point" require no further oral English language assessment. If the students are at a pre-reading age, they need not be tested further and should be placed in an approved transitional bilingual or free-standing ESL program. All other students must be given a standardized English reading test. (New York City must use the appropriate sub-test of the LAB.)

STEP 4. Determine Level of Proficiency in Reading English

Students who score above the test publisher's established "cut-off point" (level of acceptable oral proficiency) on the oral language instrument are assessed on an approved English reading test to determine their proficiency in reading English. Students who score at or below the 40th percentile require no further English language assessment. These students must be placed in an appropriate transitional bilingual or free-standing ESL program. Students scoring above the statewide reference point on a standardized English reading test are not LEP, should be placed in a mainstream class and may not generate LEP Aid. For the purposes of these regulations, a mainstream class is one where all instruction is conducted in English.

CHART I

STEPS IN THE IDENTIFICATION OF ELIGIBLE LEP STUDENTS IN DISTRICTS OUTSIDE OF NEW YORK CITY

CR 117

DIAGNOSTIC SCREENING

STEP 1	ADMINISTER HOME LANGUAGE QUESTIONNAIRE
STEP 2	STUDENTS WHO COME FROM HOMES WHERE A LANGUAGE OTHER THAN ENGLISH IS SPOKEN ARE INTERVIEWED IN ENGLISH

CR 154

ENGLISH LANGUAGE ASSESSMENT

1. Student speaks no English
NO NEED TO GO TO STEP 3.
STUDENT IS NON-ENGLISH SPEAKING.
THIS STUDENT MUST BE PLACED IN APPROPRIATE PROGRAM.

2. Student speaks some English...GO TO STEP 3.

STEP 3 ADMINISTER ORAL ENGLISH LANGUAGE TEST TO STUDENTS WHO SPEAK SOME ENGLISH

1. Student scores at or below "cut-off point" on an oral language instrument...NO NEED TO GO TO STEP 4. STOP ASSESSMENT. STUDENT IS LIMITED IN ORAL PROFICIENCY. THIS STUDENT MUST BE PLACED IN AN APPROPRIATE PROGRAM.

2. Student scores above "cut-off point" on an oral language instrument ...GO TO STEP 4.

STEP 4 ADMINISTER ENGLISH READING TEST

1. Student scores at or below statewide reference point or 40th percentile on a standardized test of English reading. STOP ASSESSMENT. STUDENT IS LIMITED IN PROFICIENCY IN READING ENGLISH. THIS STUDENT MUST BE PLACED IN AN APPROPRIATE PROGRAM.

2. Student scores above statewide reference point or the 40th percentile on a standardized test of English reading. STUDENT IS NOT LIMITED ENGLISH PROFICIENT.

C. **Annual English Language Assessment**

The annual English language assessment is a process followed to determine if a pupil with limited English proficiency continues to be LEP, using appropriate and unbiased English language assessment instruments approved by the Commissioner. The pupil's proficiency in the English language must be measured, at least annually, in order to determine further participation in a program of bilingual education and/or ESL. The eligibility of a pupil for such instruction shall continue until such time as the pupil achieves a level of English language skills (40th percentile on a reading test) which will enable him or her to perform successfully in classes in which instruction is given only in English.

Timeline for Annual English Language Assessment: A date should be established districtwide for the annual English language assessment, preferably in the spring and before the end of May of each year. This will allow a reasonable amount of instructional time in English, and, also sufficient time for districts to plan the types of programs which they must implement in the new academic year.

Procedures for Annual English Language Assessment: The procedures described above under steps one and two of the initial identification procedure should be followed. The same English reading testing instruments used for the initial identification of the student should also be used for the annual English language assessment. Students who continue to score at or below the 40th percentile must be retained in the program. LEP students may be provided approved services for up to three years and may be extended for an additional three years with the approval of the Commissioner.

D. **Coordination of Initial Identification and Annual English Assessment**

It is recommended that the district identify one person at the district level to be responsible for the coordination of the Initial Identification and Annual English Language Assessment to ensure procedural uniformity and accurate completion. An appropriately trained and certified professional should also be identified at the building level to coordinate these activities in the building. Every effort must be made to conduct all student interviews in the native language, using trained personnel. A record of the date of the student identification testing, the name of the test and the results of the test must be entered on the pupil's permanent record card.

E. **Identification of LEP Students Suspected of Having a Handicapping Condition**

School districts must establish procedures for the accurate and uniform identification of LEP students suspected of having a handicapping condition. The English language assessment of eligible LEP students with possible handicapping conditions must be determined through the use of test instruments approved by the Commissioner.

If a district refers LEP pupils who are suspected of having a handicapping condition to the committee on special education, the provisions of CR Part 200 must be followed. The CSE must assure that a bilingual multidisciplinary assessment is conducted in accordance with section 200.4(b) before it classifies such pupils with limited English proficiency as having a handicapping condition.

Districts are required to adhere to the protection afforded to LEP students with handicapping conditions by Public Law 94-142 and CR Part 200. All laws and regulations regarding referral, entry screening and procedures for diagnostic evaluation and placement of students with handicapping conditions must be followed.

A LEP pupil with a handicapping condition who scores at or below the 40th percentile on an English language assessment instrument as a result of a handicapping condition shall be provided special education programs and services in accordance with the individualized education program (IEP) developed for such pupil pursuant to CR Part 200. Those pupils shall also be eligible for services pursuant to CR Part 154 when such services are recommended in the IEP. A pupil with a handicapping condition receiving service in accordance with the provisions of Part 154 shall also be counted as a pupil served for the purposes of public excess cost aid for children with handicapping conditions.

For further specific information regarding the education of LEP students with handicapping conditions, refer to the "Guidelines for Services to Students with Limited English Proficiency and Special Education Needs in New York State." Copies may be obtained from the Division of Bilingual Education of the New York State Education Department.

New York City Only: Procedures for identifying LEP students having or suspected of having a handicapping condition, outlined in the New York City Board of Education Division of Special Education Standard Operating Procedures Manual, must be followed.

IV. PLACEMENT IN INSTRUCTIONAL PROGRAM

A. Bilingual or ESL Services for LEP Students

Schools must keep in mind that LEP students arrive at school with a wide range of academic skills. Some students may be starting school in kindergarten and others may be continuing an education begun under an entirely different educational system. Some LEP students are gifted, others need remediation or special educational services. Some bring good native language skills, while others have low levels of literacy in their native languages. Most LEP students are average achievers, as are mainstream English proficient students. All are limited in their proficiency in the English language and may be categorized along a continuum of their English language development. The New York State school system must meet the academic and English language needs of new enrollees by grouping them appropriately. Effective English language instruction includes the development of four language skills: listening/comprehension, speaking, reading, and writing. Performance in all of these areas should be used as an indicator for program placement.

It is recommended that LEP students be classified into levels of English language development from beginning, intermediate, advanced to transitional in order to facilitate instructional groupings. These categories are not mutually exclusive and should be used for instructional planning. It must be kept in mind that students will not progress in each English language skill area at the same rate. For example, some students might score at the intermediate level in reading but at the advanced level in listening/comprehension. Any such combination is possible. In grouping students, it is also necessary to use the students' composite score on a standardized English reading test.

Please note that throughout the Guidelines the terms transitional services, transitional level and transitional bilingual education are being used. It is important to understand that each term refers to a particular aspect in the education of LEP students and cannot be used interchangeably. To facilitate understanding and establish a distinction between them, each term is defined below:

Transitional Services: These are services provided to former LEP students during their first year in the English mainstream instructional program. Such services will ensure LEP students a smooth transition from the bilingual or ESL program into the English mainstream program.

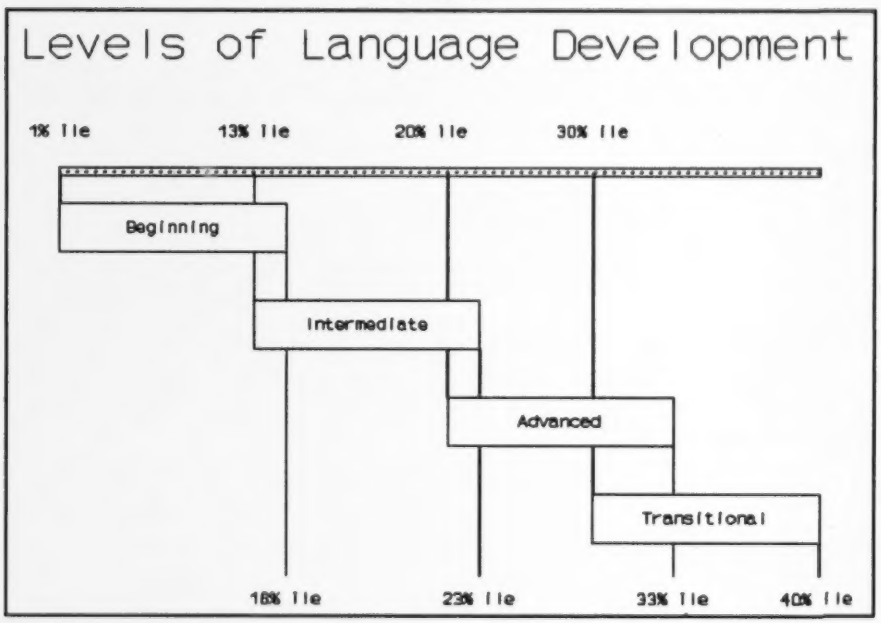
Transitional Level: The New York State Core Curriculum for English as a Second Language in the Secondary Schools establishes four different levels of English language development: beginning, intermediate, advanced and transitional. The transitional level refers to that stage of English language development in which LEP students have acquired

the highest levels of English language skills before reaching the 40th percentile, the cut-off score on a standardized test of English reading. Students at the transitional level are close to moving into an English mainstream instructional program.

Transitional Bilingual Education: Refers to a program of instruction for LEP students designed to help such students acquire proficiency in English while learning the subject areas in English and in the native language. Under the provisions of Education Law 3204 and CR Part 154, LEP students may remain in the transitional bilingual education program and generate State LEP Aid for a period of three years. Such period may be extended by the Commissioner with respect to individual students to a period not in excess of six years.

Chart II below offers a recommendation for assigning students to levels using percentile scores on an English language measure. It is important to recognize that the levels overlap because growth in all language skills does not happen evenly. School officials should decide on the placement of students scoring within the overlap zone. In such cases, variables such as student age, maturity level, grade, achievement in both language skills and content areas in English and the native language should be considered.

Chart II



B. **Request for Extension of Services**

LEP students may participate in transitional bilingual education or free-standing ESL programs for three years with an option to extend for an additional three years. Districts must write to the Division of Bilingual Education to request such authorization. A succinct rationale for the student's continuation in the program should be provided. Indicate the name, grade, school, native language of the student, the year the student first enrolled in a New York State school, and the reason why continuation in the program would be beneficial to the student.

C. **Transitional Services for Former LEP (FLEP) Students**

Students are placed in English mainstream classes after scoring above the 40th percentile on an English reading test. The students are no longer LEP and are expected to function successfully in accordance with their ability and grade level. However, school districts must do everything necessary to ensure that there is a smooth transition for these students and that they do not loose the progress made in the transitional bilingual or free-standing ESL program.

Transitional services must be provided for the first year after the student is placed in the English mainstream instructional program. Such services may include, for example: counseling groups; cultural awareness activities; specific interest groups; additional ESL, if needed; enhancement of public speaking skills; and others. Students eligible for these services cannot be counted for purposes of Limited English Proficiency Aid.

V. INSTRUCTIONAL PROGRAMS FOR LIMITED ENGLISH PROFICIENT STUDENTS

Instructional programs for LEP students should be designed to move students from beginning through transitional levels of English language development skills so that they function successfully in all-English classrooms. Such programs should help the students become proficient in understanding, speaking, reading, writing and communication skills in English while teaching them the recommended content area of the State syllabi appropriate to their ages and grade levels. The two instructional program options under CR Part 154 to ensure that LEP students become proficient in English and continue academic instruction are the transitional bilingual education and the free-standing ESL programs.

Depending on the numbers and language backgrounds of LEP students in each school building, a district may need to implement a transitional bilingual education program at one site and a free-standing ESL program at other sites. It is also possible that the administration may have to implement a transitional bilingual education program for one language group and a free-standing ESL program for other language groups in a given school.

A. Transitional Bilingual Education Programs

School districts which have an enrollment of 20 or more pupils with limited English proficiency of the same grade level assigned to a building, all of whom have the same native language which is other than English, shall provide such pupils with bilingual education programs, including instruction in ESL.

Such program is designed to help students acquire English proficiency while they continue to learn the subject areas appropriate to their age and grade levels in their native language. The program is designed to provide a transition from instruction in ESL, and the native language to instruction conducted only in English.

There are two broad categories of bilingual education programs: transitional bilingual education and full bilingual, or "developmental," bilingual education. These differ in the emphasis on linguistic and cultural development and expected student proficiency in the first and second languages.

The goal of a transitional bilingual education program is proficiency in the English language so that the student can make a prompt transition to learning only in English. The full bilingual education program, also known as the developmental bilingual education program, as in the Two-Way Bilingual Education model, places equal emphasis on the development of competence in listening/understanding, speaking, reading, and writing two

languages. An understanding of both cultures is another important learning objective. Both languages are used for instruction in all areas except language instruction. The ultimate goal of a full bilingual education program is bilingualism and bic lturalism for the participants.

CR Part 154 specifically calls for a transitional bilingual education program which includes an ESL component, a content area instructional component, and a native language arts component. Such program takes into account the first language and culture of LEP students.

1. **Program Components**

a. ESL Component Within the Transitional Bilingual Education Program

The purpose of the ESL component of a transitional bilingual education program is to develop English language skills and proficiency among LEP students. It utilizes special second language teaching techniques and approaches designed for the purpose of developmental English language learning.

LEP students must receive ESL instruction for a minimum of one unit of study per week throughout the school year. It is recommended that this instruction be given on a daily basis and strongly recommended that students who are identified as non-English speaking or who speak very little English receive at least two units of study of ESL per week. Such instruction must be designed to develop the four language skills: listening/comprehension, speaking, reading and writing. The instructional groupings should allow for four categories of students by levels of English proficiency: beginning, intermediate, advanced and transitional. As students progress in English language skills, they should be advanced to the next level of instruction in ESL.

The length of time to be spent at each skills level will depend on the student. However, it has been found that students move quickly from the beginning to the intermediate levels. The program should take into account the differing language backgrounds of the students and their age level. Kindergarten students will require intensive oral language skills development while the students in the higher grades will require extensive instruction in all language skills. All are equally important and must be taught.

In grades K-6, LEP students should receive instruction based on a sound curriculum for ESL. Instructional materials should be appropriate for teaching ESL and should be sensitive to the language and culture of the students. In general, all materials used should be of comparable quality to those used with the mainstream English proficient population.

In grades 7-12, LEP students, at a minimum, should receive the instruction

recommended for their level of proficiency in the New York State Core Curriculum for English as a Second Language in the Secondary Schools. The program should provide students with an opportunity to satisfy the required units of study in English. The courses must stress the integration of all four language skills to promote communicative and academic competence. In general, all materials should be comparable to those used with the mainstream English proficient population.

The following general guide might be helpful in establishing instructional groupings. It is not mandated, and is presented here only to assist those districts which wish to use it.

Beginning Level: Students should receive instruction which emphasizes English listening/comprehension and speaking skills. Reading and writing skills must also be introduced appropriately for each student's age and grade. For example, while kindergarten and first grade youngsters may be at the pre-reading skills level, older youngsters might very well be skillful readers in the native language. Speaking, comprehension, reading and writing should be stressed as a student's age and grade level warrants such instruction.

Intermediate Level: While instruction in oral communication must continue, students must be provided instruction which emphasizes English reading and writing skills appropriate for their ages and grade levels. They must also acquire more advanced listening/comprehension and speaking skills in English. This may mean higher level pre-reading skills for the students in the early grades and higher level reading and writing skills for older students. Reading and writing English must be taught.

Advanced Level: LEP students in grades K-12 who reach the advanced level must receive instruction which emphasizes all aspects of the district's English language arts program. Even after students have moved to higher levels of English proficiency, instructional methodologies must take into account the fact that students come from an other-than-English background and need ESL instruction. Students who are found to need some remediation in certain areas of ESL must be provided such services in addition to their regular ESL and English language arts instruction. Reading and writing English must be taught.

Transitional Level: The ESL component for LEP students at the transitional level in English must emphasize all aspects of the traditional English language arts curriculum, although these should be taught with appropriate ESL methods and techniques. The scope and sequence of such programs should be very similar to the English language arts programs offered to the general school population at comparable grade levels.

b. Content Area Component Within the Transitional Bilingual Education Program

Education law 3204 and Part 154 of the Commissioner's Regulations require that instruction of the content area subjects (mathematics, science and social studies) be taught in the native language and in English. Although districts have flexibility in designing the program of bilingual education, it must reflect the use of both languages. While most content area instruction for beginning and intermediate students should be in the native language, English must also be used. However, the exact percentage of time for each language will depend on pupil needs, district resources and program organizational patterns. The district must make the final determination.

It is expected that advanced and transitional level students will receive a major portion of their content area instruction through English. Instruction in the native language, however, will be provided as needed.

Students are expected to progress in the content areas taught in the bilingual program at the same rate as their monolingual English speaking peers. LEP students are expected to be able to demonstrate the same knowledge, competencies and skills as English proficient students, although these may be taught and tested in languages other than English. Instruction must be designed to allow the use of the native language and English. As students' proficiency in English increases, instruction in the content areas through English should also increase.

The content area component should provide an interdisciplinary framework by incorporating topics from different subjects in content area lessons. Within this interdisciplinary framework, students should also be exposed to topics on culture. This will give them an opportunity to compare facts and ideas and integrate concepts within and across cultures, which will give them deeper cultural and personal understandings.

c. Native Language Arts Component Within the Transitional Bilingual Education Program

The native language arts component shall provide instruction in a language other than English. Its overall goal should parallel that of the school system for the teaching of English language arts. Native language arts instruction should equip LEP students with good listening and speaking skills, basic reading skills, spelling abilities and competence and creativeness in oral and written communication. It must impart an appreciation of the history and culture of the United States and the student's country of origin, through the study of literature. Such instruction must be provided for a minimum of one unit of study per week throughout the school year. Further, it is recommended that instruction be given on a daily basis. Instruction in the native language should be based on a sound native language arts curriculum appropriate to the grade and language of the students being taught. It should be designed for native speakers of the language.

The native language arts component should take into account linguistic differences among countries and regions and the ages of the students. Kindergarten students will require intensive oral language skills development and reading and writing readiness while students in other grades may require extensive instruction in all aspects of language learning.

LEP students in transitional bilingual education programs may meet the Part 100 second language requirements through the study of native language arts and content area instruction in the native language. School districts must implement procedures for recording when students have completed units of study in a second language as required by Part 100 of the Commissioner's Regulations. This may be done by documenting successful completion of units of study on cumulative record cards and other pertinent student records. For specific information concerning foreign language credit, contact the NYS Education Department, Bureau of Foreign Languages Education, Room 228 EB, Albany, New York 12234, telephone: (518) 474-5927.

2. **Organizational Patterns and Schedules for Transitional Bilingual Education**

a. Organizational Patterns: The programs described above can be implemented using a number of organizational patterns. Districts should adopt those best suited to their needs. The following are most commonly used, although other patterns are also appropriate. The first two patterns are most often seen at the elementary level.

(1) Self-contained Classes: The students remain in the same classroom for most of the day except during subjects such as art, music and physical education. They are classified as beginning, intermediate, advanced and transitional based on their degree of English proficiency. They may also be assigned to skill subgroupings within these classifications as well as subgroupings based on their performance in content area subjects.

(2) Team-Teaching: This pattern is appropriate for the elementary grades. A certified bilingual teacher provides instruction in native language arts and the content areas in the native language; the ESL instruction is provided by the bilingual teacher or by a certified ESL teacher. For the rest of the day, the students may be assigned to mainstream classes.

(3) Departmentalized Classes: This pattern is most appropriate for grades where instruction is departmentalized such as intermediate, junior and senior high schools. Students are grouped for instruction in subject classes taught in their native language by certified bilingual teachers. ESL instruction is given by certified ESL teachers. The students are integrated with the mainstream school population for music, art, and physical education. As the students' English proficiency increases, they may be placed in required subject classes which are taught solely in English.

b. Sample Schedules: The following are sample student schedules which may be used to implement the organizational patterns. These samples may be modified to reflect district resources and student population while addressing the program requirements of CR Part 154. Districts are encouraged to design the schedules which best meet their needs.

(1) Elementary Level: Chart III below represents schedules that are appropriate for elementary school students. Each schedule reflects all the requirements of the recommended State core curriculum. The schedules allow for the gradual increase in the use of English for instruction and mainstreams LEP students in art, music and physical education.

Chart III

1st to 23rd Percentile

Beginning Level
Native Language Arts (36 min. Native Language)
Mathematics (20 min. N.L./10 min. English)
Art, Music, Physical Education (Eng Mnstrm-45 min P.E/30 min Art/Music)
Social Studies (20 min. N.L./10 min. English)
English as a Second Language (30 min Oral Lang./30 min Reading/Writing)
Science/Health & Safety (15 min. N.L.)

Intermediate Level
Native Language Arts (36 min. Native Language)
Mathematics (15 min. N.L./15 min. English)
Art, Music, Physical Education (Eng Mnstrm-45 min P.E./30 min Art/Music)
Social Studies (15 min. N.L./15 min. English)
English as a Second Language (15 min Oral Lang./45 min Reading/Writing)
Science/Health & Safety (5 min. N.L./ 10 min. English)

24th to 40th Percentile

Advanced Level
Native Language Arts (36 min. Native Language)
Mathematics (10 min. N.L./20 min. English)
Art, Music, Physical Education (Eng Mnstrm-45 min P.E./30 min Art/Music)
Social Studies (10 min. N.L./20 min. English)
English as a Second Language (10 min Oral Lang./50 min Reading/Writing)
Science/Health & Safety (15 min. English)

Transitional Level
Native Language Arts (36 min. Native Language)
Mathematics* (30 min. English)
Art, Music, Physical Education (Eng Mnstrm-45 min P.E./30 min Art/Music)
Social Studies* (30 min. English)
Transitional Language Arts (60 min English Reading/Writing)
Science/Health & Safety* (15 min. English)

(2) Middle School Levels: Chart IV illustrates sample schedules for the middle school levels. In each case, the schedule reflects all requirements of a transitional bilingual education program. The beginning and intermediate levels are intended for students scoring between the lst and the 23rd percentiles, and the advanced and transitional levels are for those students scoring between the 24th and 40th percentiles.

Chart IV

6th Grade

Beginning Level
Native Language Arts (36 min. Native Language)
Mathematics (20 min. N.L./10 min. English)
Art, Music, Physical Education (Eng Mnstrm-30 min P.E./15 min Art/Music)
Social Studies (40 min. N.L./20 min. English)
English as a Second Language (30 min. English)
Science/Health & Safety (30 min. N.L.-Science/15 min. N.L.-Health)

7th Grade

Intermediate Level
Spanish for Native Speakers* (36 min. Native Language)
Tech./Home & Careers (20 min. N.L./20 min. English)
Music/Physical Education (English Mainstream - 40 min.)
Social Studies (30 min. N.L./10 min. English)
English as a Second Language (40 min. English)
Health/Elective (20 min. N.L./20 min. English)

8th Grade

Advanced Level
Spanish for Native Speakers* (36 min. Native Language)
Tech./Home & Careers (10 min. N.L./30 min. English)
Art/Physical Education (English Mainstream - 40 min.)
Social Studies (10 min. N.L./30 min. English)
English as a Second Language (40 min. English)
Elective (40 min. English Language Arts)

9th Grade

Transitional Level
Spanish for Native Speakers* (36 min. Native Language)
General H.S. Math (40 min. English - N.L. as needed)
Art, Music, Physical Education (English Mainstream - 40 min.)
Global Studies (40 min. English - N.L. as needed)
English as a Second Language (40 min. English)
Science 9 (40 min. English - N.L. as needed)

*Meets Second Language Requirement

(3) High School Levels: Chart V illustrates sample schedules for the high school levels. In each case, the schedule reflects all requirements of a transitional bilingual education program. The beginning and intermediate levels are intended for students scoring between the lst and the 23rd percentiles, and the advanced and transitional levels are for those students scoring between the 24th and 40th percentiles.

Chart V

9th Grade

Beginning Level
Spanish for Native Speakers* (36 min. Native Language)
General H.S. Math (30 min. N.L./10 min. English)
Art, Music, Physical Education (English Mainstream - 40 min.)
Global Studies (30 min. N.L./10 min. English)
English as a Second Language (40 min. English)
Science 9 (40 min. English/ESL)

10th Grade

Intermediate Level
Spanish for Native Speakers* (36 min. Native Language)
Math Course I (non-Regents) (20 min. N.L./20 min. English)
Art, Music, Physical Education (English Mainstream - 40 min.)
Global Studies (20 min. N.L./20 min. English)
English as a Second Language (40 min. English)
Local Science (i.e. Biology) (40 min. English/ESL)

11th Grade

Advanced Level
Spanish for Native Speakers* (36 min. Native Language)
Elective (40 min. English)
Art, Music, Physical Education (English Mainstream - 40 min.)
U.S. History and Government (10 min. N.L./30 min. English)
English as a Second Language (40 min. English)
Elective (40 min. English)

12th Grade

Transitional Level
Spanish for Native Speakers* (36 min. Native Language)
Elective (40 min. English)
Art, Music, Physical Education (English Mainstream - 40 min.)
Economics/Participation in Government (10 min. N.L./30 min. English)
English as a Second Language (40 min. English)
Elective (40 min. English)

*Meets Second Language Requirement

B. Free-Standing English as a Second Language Program

School districts which have eligible pupils with limited English proficiency of the same grade level assigned to a building, but which does not have 20 of such pupils with the same native language which is other than English, shall provide either an ESL program or a program of bilingual education to such pupils.

English as a second language is a specific discipline which uses an ESL approach, allowing students to learn English systematically and cumulatively moving from concrete to abstract levels of language in a spiralling fashion. An ESL program is sensitive to the first languages and cultures of the students and facilitates the students' integration into the culturally pluralistic mainstream.

This program addresses both social English and the academic English. Social English is developed informally through interaction with native speakers and formally in a classroom setting. Academic English, however, must be developed in a classroom setting.

ESL content area classes teach students subject matter while simultaneously developing or strengthening English language skills through second language acquisition strategies. The program develops skills in understanding, speaking, reading, writing and communicating English and prepares the students to function successfully in the mainstream classes.

CR Part 154 specifically calls for a free-standing program of instruction which includes an ESL component, and a content area instructional component in English supported by ESL methodologies.

1. Program Components

a. ESL Component Within the Free-Standing ESL Program

LEP students must receive ESL instruction for a minimum of one unit of study per week throughout the school year. It is recommended that instruction be given on a daily basis and strongly recommended that students who are identified as non-English speaking or who speak very little English receive at least two units of study of ESL per week. Such instruction must develop all four language skills. Instructional groupings should allow for four categories of students by levels of English proficiency: beginning, intermediate, advanced and transitional. As students progress in English language skills, they should be advanced to the next level of instruction in ESL.

The curriculum and instructional groupings for ESL in a free-standing ESL program are identical to those of the English as a second language component in the transitional

bilingual education program described above.

b. Content Area Component Within the Free-Standing ESL Program

The content area component is the instructional portion of the free-standing ESL program which provides content area information while, at the same time, promotes the cognitive and linguistic growth of LEP students by employing ESL methodologies. LEP students are expected to progress in the content areas taught in the free-standing ESL program at the same rate as their monolingual English-speaking peers. They are expected to demonstrate the same knowledge and skills as English proficient students.

The content area component should be interdisciplinary and multicultural in orientation. This component should provide LEP students with at least one unit of study of content area instruction per week through the use of ESL methodologies. Instruction in content area subjects (mathematics, science, social studies, etc.) must be equivalent in scope to that required by the school district and by the New York State Education Department for students who are fully proficient in English. It should, however, take into account the students' language backgrounds and ages.

Instructional materials should be appropriate for the teaching of the subject matter by means of ESL techniques. Their quality should be comparable to those used with mainstream students.

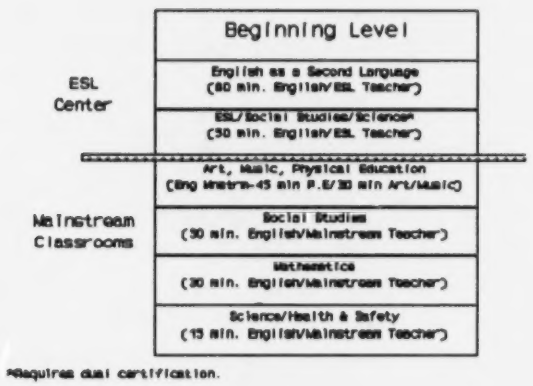
2. **Organizational Patterns and Schedules for Free-Standing ESL Programs**

Organizational Patterns: There are various organizational patterns which can be used for free-standing ESL programs. Districts should adopt the patterns best suited to their needs. The following are the three patterns most commonly used although other patterns might also be appropriate.

a. English as a Second Language Center: During part of the day, the ESL teacher provides small group instruction, daily, in ESL and content area using ESL methodologies. The groups are usually homogeneous in age and English language proficiency. For the remainder of the school day, students are assigned to the English class appropriate to their age and grade level. Chart VI is a sample schedule for students at the elementary level receiving ESL instruction in an ESL center.

Chart VI

ESL Center Elementary



*Requires dual certification.

b. Departmentalized Class: This pattern is common at the secondary school level and requires both ESL and ESL content-based courses. If the ESL teachers are not qualified to provide instruction in subject areas, the ESL teachers and the subject area teachers must coordinate their instructional plans and arrange time to discuss pupil progress, instructional goals and program modifications. In addition, mainstream teachers should receive training in ESL techniques. Chart VII below illustrates this pattern.

Chart VII

Departmentalized ESL Classroom

(High School Level)

Beginning Level
Spanish for Native Speakers* (40 min. N.L./Foreign Language Teacher)
General H.S. Math** (40 min. English/ESL Teacher)
Art, Music, Physical Education (40 min. English/Mainstream Teachers)
Global Studies** (40 min. English/ESL Teacher)
English as a Second Language (40 min. English/ESL Teacher)
Science 9** (40 min. English/ESL Teacher)

*Meets second language requirement
**Requires dual certification

c. Self-Contained Class: An ESL teacher works with one group of students for the entire day. Since these teachers provide instruction in all required subject areas, they must be certified or licensed to teach the subject areas. Students in self-contained classes should move rapidly into a team teaching, departmentalized or ESL center after they reach the intermediate level of English proficiency. Chart VIII below illustrates a self-contained ESL classroom at the elementary level.

Chart VIII

Beginning Level
English as a Second Language (100 min. English)
Mathematics (30 min. English)
Physical Education (English Mainstream - 45 min.)
Social Studies (30 min. English)
Art/Music (English Mainstream - 30 min.)
Science/Health & Safety (15 min. English)

C. Instructional Strategies for Transitional Bilingual Education and Free-Standing ESL Programs

The current direction in language teaching promotes both communicative competence and academic proficiency. Several approaches that serve this purpose include the Alternate Language Approach, Cognitive Academic Learning Approach, Cooperative Learning, Natural Approach, Preview-Review Approach, Sheltered English, and the Whole Language Approach. A brief description of each of these techniques is included in this section.

Effective instruction may not be achieved through any single approach. Educators working with LEP students should be familiar with several methodologies, techniques and materials and draw from this knowledge in meeting the needs of their students.

Alternate Language Approach: This approach separates the two languages for instruction. Instruction is offered in each language either: 1) alternating languages day by day; 2) alternating them each half-day; or 3) alternating them in subject area instruction. This approach clearly delineates the use of the two languages.

Cognitive Academic Learning Approach: This approach provides content based ESL instruction, English language development and instruction employing special strategies that will help students understand and remember important concepts. It is best suited for LEP students at the intermediate, advanced and transitional levels. However, this approach does not supplant content instruction in mainstream classes. It merely provides additional support for English language development

Cooperative Learning: This approach espouses cooperative and interactive student participation rather than independent or competitive learning. Research on cooperative learning indicates that many students learn more when they work cooperatively, feel more positive about school, and acquire social skills. Teachers must be trained to implement this approach in techniques for enabling students to develop communication, leadership, trust-building and conflict-resolution skills, and designing carefully structured activities for these purposes.

Natural Approach: The natural approach is a language-teaching methodology based on the natural process of first language acquisition. It stresses the importance of a meaningful context. In these classes, students strive for communicative fluency rather than accuracy in structure and phonology. At the beginning, a student is said to be in a "silent period," in which he or she may understand but is not yet able to produce the new language. It is only in the later stages of language development that attention is paid to form rather than meaning. Aspects of the natural approach include the modeling of correct language rather than error correction, the use of first language in the early stages, and an emphasis on communication throughout.

Preview-Review Approach: This approach includes a three-step process which is best suited to team teaching: 1) the presentation of the lesson in one language by one teacher; 2) the presentation of the lesson by a second teacher in the second language; and 3) review and reinforcement of the lesson with each teacher using a different language. Reinforcement may be provided for all students or for sub-groups depending on language dominance. This approach is of particular interest for teachers in Two Way Bilingual Education Programs.

Sheltered English: Sheltered English is a program based on research which shows that comprehension varies with the instructional setting. Lessons taught in a sheltered English program emphasize comprehensible input. Once a student's language proficiency has increased, he or she can participate in classes that require more substantial reading and writing assignments. The essential attributes of a sheltered English program are the teacher's use of simplified input, context clues, frequent checks for understanding and appropriately designed lessons.

Whole Language Approach: The whole language approach is based on the philosophy that language acquisition, whether written or oral, is a natural developmental process. This approach is appropriate for both language and content-area instruction in bilingual, ESL and mainstream English settings. Lessons which apply the whole language principle should move from the whole to the particular, be learner-centered, promote social interaction, include instruction in all four language skills and reflect the teacher's confidence in the students' abilities.

VI. EVALUATION

The evaluation design and objectives for programs serving students identified as LEP must conform to those specified in this section. The district must select one assessment device for each skill or subject area. To avoid duplication, the district should use the same English reading and oral English language tests for initial identification, annual English language assessment and program evaluation. Bilingual programs serving language groups other than Spanish must use a locally developed assessment device to assess skills in the native language. Whenever possible, all testing must be conducted on a spring to spring evaluation design.*

All norm-referenced and standardized test data should be submitted to the SED in electronic form using the Local Education Agency Program (LEAP) Annual Evaluation Report. All other achievement data should be available for review during monitoring visits.

Instructional Objectives for CR Part 154 Programs

A. ESL

1. Speaking in English (This only applies to those who have not demonstrated proficiency by achieving the publisher's recommended cut-off for oral proficiency in English)

New York City Only: LEP students served in the CR Part 154 program will demonstrate a mean gain of 10 NCEs in each grade for grades K-6 or 5 NCEs in each grade for grades 7-12 as measured by the speaking subtest of the Language Assessment Battery (LAB).

Outside of New York City: LEP students served in the CR Part 154 program will demonstrate a mean gain of 10 NCEs in each grade for grades K-6 or 5 NCEs in each grade for grades 7-12 as measured by the speaking subtest of the Language Assessment Battery (LAB) or the Basic Inventory of Natural Language (BINL).

or

LEP students served in the CR Part 154 program will demonstrate a mean gain of 10 raw score units as measured by the Total Score of the Language Assessment Scale (LAS-O) or the Oral Expression subtest of the Maculaitis Assessment Program (MAC).

*Kindergarten data collection will be on a fall to spring schedule.

2. Reading in English

New York City Only: LEP students served in the CR Part 154 program will demonstrate a mean gain of 10 NCEs in each grade for grades K-6 or 5 NCEs in each grade for grades 7-12 as measured by the Reading subtest of the Language Assessment Battery (LAB) and/or the district-wide norm-referenced reading test. (If both the LAB and the district-wide reading test are administered, both must be reported.)

Outside of New York City: LEP students served in the CR Part 154 program will demonstrate a mean gain of 10 NCEs in each grade for grades K-6 or 5 NCEs in each grade for grades 7-12 as measured by the Reading subtest of the Language Assessment Battery (LAB) or the district-wide norm-referenced reading test. (If both the LAB and the district-wide reading test are administered, both must be reported).

B. Mathematics

1. ESL: LEP students served in the CR Part 154 program will demonstrate a mean gain of 5 NCEs in each grade for grades 2-12 as measured by the district-wide norm-referenced math test.

2. Spanish: LEP students served in the CR Part 154 program will demonstrate a mean gain of 5 NCEs in each grade for grades 2-12 as measured by the Spanish Assessment of Basic Education (SABE).

3. Language other than Spanish: LEP students served in the CR Part 154 program will demonstrate a raw score gain as measured by a locally developed assessment device.

New York City Only: LEP students in grades 2-8 who are served in the CR Part 154 program will demonstrate a mean gain of 5 NCEs on the New York City Mathematics Test in any of the languages in which it is given, depending on the language in which they receive mathematics instruction.

All School Districts: LEP students in grades 9-12 who are served in the CR Part 154 program will achieve a passing score on the Regents Competency Test in Mathematics in any of the languages in which it is given, depending on the language in which they receive mathematics instruction.

C. Native Language Arts

1. Speaking in the Native Language (Bilingual Programs): This only applies to those who have not demonstrated proficiency by achieving the publisher's recommended cut-off for oral proficiency in Spanish.

New York City Only: (Spanish): LEP students served in the CR Part 154 program will demonstrate a mean gain of 5 NCEs in each grade as measured by the Speaking subtest of the Language Assessment Battery (LAB).

Outside of New York City (Spanish): LEP students served in the CR Part 154 program will demonstrate a mean gain of 5 NCE as measured by the Speaking subtest of the Language Assessment Battery (LAB) or the Basic Inventory of Natural Language (BINL).

Total State (Language other than Spanish): LEP students served in the CR Part 154 program will demonstrate a raw score gain as measured by a locally developed assessment device.

2. Reading in the Native Language (Bilingual Programs)

New York City Only (Spanish): LEP students served in the CR Part 154 program will demonstrate a mean gain of 5 NCEs in each grade as measured by the Reading subtest of the Language Assessment Battery (LAB).

Outside of New York City (Spanish): LEP students served in the CR Part 154 program will demonstrate a mean gain of 5 NCEs in each grade as measured by the Reading subtest of the Language Assessment Battery (LAB) or the Spanish Assessment of Basic Education (SABE).

Total State (Language other than Spanish): LEP students served in the CR Part 154 program will demonstrate a raw score gain as measured by a locally developed assessment device.

For additional information concerning program evaluation, contact the New York State Education Department, Bureau of School and Categorical Programs Evaluation, Room 876 EBA, Albany, New York 12234, telephone: (518) 474-3882.

VII. TESTING REQUIREMENTS

Regents Competency Tests (Native Language Writing and Mathematics). LEP students who entered school in New York State after grade eight, may meet competency test requirements for reading and writing through alternative testing procedures. Reading and writing skills in the native language may be demonstrated by passing the Native Language Writing Test, available in 29 languages. The Regents competency test in mathematics is also available in the same 29 languages. Students taking any of the Native Language Writing or Mathematics Regents Competency Tests in any of these languages must also take a Department approved test of English as a second language. The required level of English proficiency increases according to the number of years of English instruction the pupil has received. The 29 languages in which the tests are available are listed below:

Albanian	Greek	Korean	Serbo-Croatian
Amharic	Haitian Creole	Lao	Spanish
Arabic	Hebrew	Malayan	Tagalog
Burmese	Hindi	Polish	Turkish
Chinese	Italian	Portuguese	Thai
Farsi	Japanese	Romanian	Urdu
French	Khmer	Russian	Vietnamese
German	(Cambodian)		

Regents Competency Test (Science). The Regents Competency Test in Science is currently available in the six languages listed below:

Chinese	Haitian Creole	Spanish
French	Korean	Vietnamese

Regents Competency Test (U.S. History and Government). The Regents Competency Test in U.S. History and Government is currently available in the six languages listed below:

Chinese	Korean
French	Spanish
Haitian Creole	Vietnamese

Regents Competency Test (Global Studies). The Regents Competency Test in Global Studies is currently available in the six languages listed below:

Chinese	Korean
French	Spanish
Haitian Creole	Vietnamese

Regents Examination (Mathematics) (Sequential Math Course I). The ninth grade Regents examination in mathematics is currently available in Spanish.

Pupil Evaluation Program (PEP) Tests and the Program Evaluation Tests (PET). LEP students who have not received two full school years (20 months) of English language instruction at the time of testing may be exempted from taking the Pupil Evaluation Program (PEP) Test and the Program Evaluation Test (PET) if the test is not available in their native language.

PEP Tests (Mathematics Grades 3 and 6). The PEP tests are currently available in the four languages listed below:

Chinese	Haitian-Creole
French	Spanish

PET Tests (Science/Grade 4, Social Studies/Grades 6 and 8). The Pupil Evaluation Tests are currently available in the four languages listed below:

Chinese	Haitian Creole
French	Spanish

High School Regents Examinations. Regents examinations are not available in languages other than English with the exception of Sequential Math Course I.

For additional information concerning State testing requirements, contact the New York State Education Department, Division of Educational Testing, Room 771 EBA, Albany, New York 12234, telephone (518) 474-5099.

VIII. PARENTAL INVOLVEMENT

Districts must make every effort to ensure that parents or guardians of LEP students are made to feel welcome and comfortable in their children's schools. Every effort must be made to establish a communication system which will allow parents or guardians to fully understand the school officials and directives. Parents of LEP children are often LEP themselves and usually unfamiliar with the New York State school system. It is the school's responsibility to inform the parents of the school program and provide all other school related information in a language they understand.

Parental Notification: Parents or guardians must be notified of their child's placement in the transitional bilingual education or free-standing ESL program. If one or both parents or guardians do not understand English, such notification and all school-related information must be made available to them in the language they understand.

Parental Biannual Meetings: School districts with LEP students must make an effort to meet with the parents or guardians of such students at least twice a year. The purpose of the meetings is to help the parent or guardian understand the goals of the program and to show them how they might help their children with their educational program. Every effort must be made to conduct these meetings in the language the parents or guardians understand.

Parental Withdrawal Option: Parents or guardians of LEP students have the option to withdraw their children from a transitional bilingual education program. However, prior to the withdrawal, the school principal and the school or district supervisor of bilingual education must meet with the parent or guardian and explain the nature, purpose and educational values of the bilingual education program and the skills required of personnel in such programs.

Furthermore, parents and guardians must be informed that while they may withdraw their child from a transitional bilingual education program, as a minimum, the child must participate in a free-standing ESL program.

Option to Transfer into Bilingual Education: Parents have the right to request that the district transfer their child from a school building not offering bilingual education to another building within the district that offers such a program. The district must make all the provisions necessary to facilitate such a transfer. In addition, schools must notify parents or guardians of LEP children of their rights to such a transfer in the language that the parent understands. A parent who chooses not to exercise the transfer option must be informed that his or her child will participate in a free-standing ESL program.

IX. PROGRAM MANAGEMENT

The district must put in place a management and administration system which ensures that the provisions of these Regulations are implemented and maintained. The program manager is responsible for ensuring that the district complies with all requirements of CR Part 154 and the provisions of the Education Law concerning programs for pupils with limited English proficiency and State aid for such programs in a timely and efficient manner.

A. Coordination of Funds

Districts with approved comprehensive plans will generate State LEP aid for the students identified and served through the approved plan. The State LEP Aid funds are payable the year following the provision of the approved services. Funds generated through the LEP aid program are categorical and must be used for LEP students in the schools where they are generated. These funds are intended to supplement and expand the already existing district effort. Funds generated under State LEP aid must be budgeted and recorded on the CA-10 budget forms. ONLY STATE LEP AID FUNDS SHOULD BE REPORTED ON THE CA-10.

It is, therefore, important that districts take advantage of all State and federal funds available for the education of LEP students. A well coordinated plan for the use of these funds should be prepared in order to give LEP students the opportunity to receive not only appropriate but expanded services which will benefit their education. Districts must describe how all funds earmarked for LEP students will be coordinated to ensure the efficient and effective delivery of services.

B. Program Planning and Site Selection

The development of the Comprehensive Plan should be a collaborative effort by representatives of the personnel directly involved in the education of LEP students and not in isolation by a coordinator. This collaboration will help ensure LEP students access to appropriate educational programs and services. Therefore it is suggested that a planning committee composed of representatives of the different sectors of the education community responsible for the delivery of services to LEP students be given the responsibility of planning and preparing the plan. Parents of LEP students should also be consulted and involved in a meaningful way at all stages of the plan's development.

1. Sites: It is advisable that the services be provided to students in the schools they would normally attend. However, if greater efficiency of instruction and learning can be obtained by establishing ESL or bilingual centers in designated schools, it would be permissible to do so. The center must not, however, create segregated environments for

the LEP students. Furthermore, the assignments to other sites must not be made for the purpose of precluding the implementation of a bilingual education program. Provisions must be made at all times to ensure that the LEP students are not segregated for major portions of the day.

2. Materials and Facilities: Materials and facilities for the implementation of the program may not be inferior to those materials and facilities available to the English proficient mainstream pupils. Schools must avoid using closets, hallways and cafeterias for the instruction of LEP students. Attractive, well lit and ventilated classrooms must be assigned to the LEP students. Instructional materials, including textbooks, should be of the same quality and quantity available to the mainstream students. For example, outdated, soiled and mutilated materials should be discarded and replaced as necessary with current, attractive materials. All the materials necessary to run an efficient program should be available in ample supply for each student. LEP students should have access to the most modern equipment and in the quantities comparable to that available to the general school population.

3. Student/Teacher Ratio: The student/teacher ratio should not exceed that of the rest of the school. It is strongly recommended that, where possible, the ratio be smaller.

C. Staff Management

All staff responsible for implementing any of the provisions of the Regulations must be properly qualified and certified in accordance with State certification requirements.

1. District CR Part 154 Coordinator: It is advisable that school districts designate a person to coordinate districtwide activities and programs relative to LEP students and the implementation of requirements under CR Part 154.

Coordinator(s) Responsibilities: The responsibilities can include:

a. the management and coordination of the planning and development of the district Comprehensive Plan; the LEP pupil screening, identification and support activities, the districtwide staff development activities; the submission of the LEAP data; monitoring of LEP student records; and parent activities;

b. serving as resource person relative to the needs of LEP students for the district administration, the community, the Board of Education and all district professional and support staff; and,

c. administration of programs for LEP students including management and coordination of district funds; disbursement of supplies and instructional materials for the bilingual and ESL programs; and other administrative activities, as needed.

Coordinator Qualifications: The program coordinator(s) should hold appropriate certification in supervision and administration at the district level, and should have experience in program management and working with diverse LEP populations. It is suggested that school districts with bilingual programs designate coordinators who are proficient in English and in at least one of the languages of the bilingual programs and are knowledgeable of the culture and heritage of the target population.

2. Teaching/Support Personnel: Teachers must hold the State certification appropriate for their assignment. Bilingual teachers must hold a State bilingual education certificate appropriate for the language and grade level of the students being taught. Teachers of ESL must hold State certification in English to speakers of other languages (ESOL). Content area subjects may be taught by bilingual teachers or ESL teachers who are also licensed or certified in the appropriate subject area.

Where it becomes impossible to identify certified or licensed bilingual or ESL teachers the district must apply for special provisional certification for qualified professionals. The district superintendent must make such a request directly to the New York State Education Department, Division of Teacher Certification, Room 5A-11, Cultural Education Center, Albany, New York, telephone (518) 474-6440.

New York City Only: Bilingual and ESL teachers must hold an appropriate New York City license. Teachers holding an ancillary certificate or a temporary per diem (TPD) certificate appropriate to the area of assignment may provide bilingual or ESL instruction as appropriate to the license held. Teachers holding State certification in ESL and bilingual education may also provide such instruction.

Buffalo Only: Bilingual and ESL teachers must hold an appropriate Buffalo city license in the area they are assigned to teach.

3. Teacher Aides: Teacher aides may not provide direct instructional services to LEP students. They may only participate in the programs to provide for children's physical needs, enhance their safety and/or offer clerical assistance to the teachers.

4. Teaching Assistants: Teaching assistants are licensed/certified by the State. They are authorized to work with small groups of students under the general supervision of a classroom teacher.

5. Paraprofessionals licensed by the City of New York, are authorized to work with small groups of students under the general supervision of the classroom teacher.

D. **Staff In-Service Training**

All school staff and school personnel directly involved with LEP students must participate in staff development activities designed to maximize their ability to work with LEP students. Given that LEP students in free-standing ESL programs generally will spend the major portion of the instructional day in the mainstream classroom, intensive training is especially critical for those mainstream classroom teachers of LEP students who are in free-standing ESL programs.

The inservice program must focus on the language, the cultural heritage and the instructional methodology appropriate for learners of a second language. The program must be designed to enhance the personnels' appreciation for the LEP pupil's native language and culture. It must also provide information on the techniques, methods and strategies appropriate for instructional and support services for LEP students. Research in second language learning, bilingual education theory and practice, and ESL methods for teaching content areas should also be addressed in the inservice program. In addition, school personnel should be introduced to techniques to improve communication with parents and guardians of LEP students.

New York City Only: Persons teaching LEP students under an ancillary certificate or a temporary per diem certificate should participate in intensive staff development activities designed to improve their skills in working with LEP students.

E. **Support Services**

School districts with LEP students participating in bilingual or free-standing ESL programs must provide appropriate support services needed by such students to achieve and maintain a satisfactory level of academic performance. Such services may include, but need not be limited to, individual counseling, group counseling, home visits, and parental counseling. Where appropriate, such services must be provided in the first language of the student and the student's parents or other persons in parental relation to the student.

X. EXCEPTIONS AND VARIANCES

A. Exceptions

Some school districts are under court order to provide educational services to LEP students or have entered into agreements with federal agencies, such as the Office for Civil Rights, to provide services.

When the educational program mandated by the court order or the agreement with a federal agency is equivalent to, or exceeds, the requirement of CR Part 154, districts may submit the mandated program for approval in lieu of the requirements of CR Part 154. These districts, however, must be in full compliance with the court order or federal agreement. When a district's court order or federal agreement is determined by the Department not to be equivalent to the requirements of CR Part 154, the district must meet the minimum requirements of CR Part 154.

New York City Only: School districts must adhere to the requirements set forth in the Consent Decree NYC Board of Education Special Circular #2 1975-76, the Consent Decree Program NYC Board of Education Special Circular #11, 1975-76, and the Lau Compliance Plan NYC Board of Education Special Circular #69, 1977-78 when providing services to LEP students scoring between the 1st and the 20th percentile on the LAB. A review of this court order and the federal agreement, however, has determined that services to "comparably limited" students are not equivalent to the requirements of CR Part 154. Therefore, "comparably limited" students must be provided with a transitional bilingual education or free-standing ESL program as outlined in this document and as appropriate.

Copies of the court order and/or federal agreement must be included with the Comprehensive Plan and an assurance regarding compliance with the court order and/or agreement must be signed by the superintendent of the district. In addition, districts must provide a description of the program and an outline indicating how the mandated program is equivalent to, or exceeds, the requirements of CR Part 154.

The State Education Department will monitor compliance of programs established under court orders and/or agreements with federal agencies in the same manner in which it monitors other programs required under CR Part 154.

B. Variances

The Commissioner may grant a variance to a school district from any of the requirements of subdivision (b) of Section 154.5 of CR Part 154.

An application for a variance under CR Part 154 will be considered for approval if the program proposed is substantially equivalent to a program which meets all requirements of Part 154. Application forms and detailed instructions are available upon request by writing to the Division of Bilingual Education.

XI. BOCES-OPERATED PROGRAMS

Districts in cities with populations of less than one hundred twenty-five thousand may contract with a Board of Cooperative Educational Services (BOCES) to provide a transitional bilingual education or free-standing ESL program. Districts wishing to receive State LEP Aid for services to LEP students through a BOCES will be required to submit, among other things, a Comprehensive Plan, including a Report of LEP Students Identified and Served; a Proposed Budget for the Operation of a State Aided Project (CA-10); a signed Statement of Assurances; a written policy on the education of LEP students; and a report on the educational personnel and on the funds targeted for LEP students.

The Comprehensive Plan which must be prepared and submitted by the district should describe the transitional bilingual and/or free-standing ESL programs which will be implemented for all LEP students in a particular district. Even though the BOCES may be providing the personnel for the program, the district still has the responsibility to manage the program. The Report of LEP Students Identified and Served should provide a count of all LEP students who have been identified in the spring and will be served by the BOCES in 1990-91 through the district's approved Comprehensive Plan. It should also provide a count of those LEP students who were served in 1989-90 through the district's approved Comprehensive Plan. The CA-10 should provide a specific itemization describing the planned use of LEP Aid funds.

APPENDIX A

Commissioner's Regulations for the Education of
Pupils with Limited English Proficiency
Part 117
Part 154

PART 117
DIAGNOSTIC SCREENING OF PUPILS

Section 117.1 Scope of Part. The purpose of this Part is to establish standards for the screening of every new entrant to the schools to determine which pupils are possibly gifted, or have a possible handicapping condition in accordance with subdivision (6) of section 3208 of the Education Law and/or possibly are limited English proficient in accordance with subdivision 2-a of section 3204 of the Education Law.

117.2 Definitions. As used in this Part:

(a) A pupil who has a possible handicapping condition shall mean a pupil who, on the basis of diagnostic screening, shows evidence of being a pupil with a handicapping condition as defined in section 200.1(d) of this Title.

(b) A pupil who is possibly gifted shall mean a pupil who, on the basis of diagnostic screening, appears to meet the definition of gifted and talented as contained in section 142.2 of this Title.

(c) A pupil who possibly is limited English proficient shall mean a pupil who, on the basis of diagnostic screening, appears to meet the definition of limited English proficiency as contained in section 154.2 of this Title.

(d) New entrant shall mean a pupil entering the New York State public school system for the first time, or reentering a New York State public school with no available record of a prior screening.

(e) For purposes of paragraph (a) of subdivision (5) of section 3208 of the Education Law:

Pupils who score below level two on either the third grade reading or mathematics test for New York State elementary schools and pupils who obtain a comparable percentile score on the Regents Preliminary Competency Test in reading or writing shall mean pupils obtaining scores that have been designated by the commissioner as the scores indicating the need for diagnostic screening. Those pupils exempted from testing as non-English-speaking shall be examined in the pupil's native language through similar procedures, and shall be screened for possible handicapping conditions if resultant scores are comparable to those indicated above.

(f) Diagnostic screening shall mean a preliminary method of distinguishing from the general population those pupils who may possibly be gifted, those pupils who may possibly have a handicapping condition and/or those pupils who possibly are limited English proficient.

117.3 Diagnostic Screening. (a) Each school district shall develop a plan for the diagnostic screening of all new entrants, pupils who score below level two on either the third

grade reading or mathematics test for New York State elementary schools and students who obtain a comparable percentile score on the Regents Preliminary Competency Test, and all such new entrants, pupils and students shall receive such screening.

(b) Such diagnostic screening shall be conducted:

(1) by persons appropriately trained or qualified;

(2) in the pupil's native language if the language of the home is other than English;

(3) in the case of new entrants, prior to the school year, if possible, but no later than December first of the school year of entry, or within 15 days of transfer of a pupil into a New York State public school should the entry take place after December first of the school year;

(4) in the case of pupils who score below level two on either the third grade reading or mathematics test for New York State elementary schools, and students who obtain a comparable percentile score on the Regents Preliminary Competency Test, within 30 days of the availability of the test scores.

(c) Diagnostic screening shall include, but not be limited to:

(1) a health examination by a duly licensed physician, or evidence of such in the form of a health certificate, in accordance with sections 903, 904 and 905 of the Education Law;

(2) certificates of immunization or referral for immunization in accordance with section 2164 of the Public Health Law;

(3) a determination of receptive and expressive language development, motor development, articulation skills and cognitive development;

(4) a determination that the pupil is of foreign birth or ancestry and comes from a home where a language other than English is spoken as determined by the results of a home language questionnaire and an informal interview in English.

(d) The results of the diagnostic screening shall be reviewed and a written report of each pupil screened shall be prepared by appropriately qualified school district staff. Such report shall include a description of diagnostic screening devices used, the pupil's performance on those devices and, if required, the appropriate referral.

(e) A pupil who may have a handicapping condition shall be referred to the committee on special education no later than 15 calendar days after completion of such diagnostic screening. Such referral shall be accompanied by the report of such screening.

(f) A pupil identified as possibly gifted shall be reported to the superintendent of schools no later than 15 calendar days after completion of such screening. Such referral shall be accompanied by the report of such screening.

(g) A pupil identified as possibly being limited English proficient shall be assessed in accordance with Part 154 of this Title.

PART 154
APPORTIONMENT AND SERVICES FOR PUPILS WITH LIMITED ENGLISH PROFICIENCY

Section 154.1 Scope of Part. The purpose of this Part is to establish standards for school districts having pupils with limited English proficiency to assure that such pupils are provided opportunities to achieve the same educational goals and standards as the general student population. In accordance with the provisions of this Part, each school district shall provide pupils with limited English proficiency equal access to all school programs and services offered by the district commensurate with their ages and grade level, including access to programs required for graduation.

154.2 Definitions.

(a) Pupils with limited English proficiency shall mean pupils who by reason of foreign birth or ancestry, speak a language other than English, and

(1) either understand and speak little or no English; or

(2) for school years prior to the 1989-90 school year, score below the statewide reference point, or its equivalent, on an English language assessment instrument approved by the commissioner; or

(3) for the 1989-90 school year, either:

(i) score below the statewide reference point, or its equivalent, on an English language assessment instrument approved by the commissioner, or

(ii) qualify for an expanded program of services established pursuant to paragraph (2) of subdivision (f) of this section.

(4) for the 1990-91 school year or thereafter, score at or below the 40th percentile, or its equivalent as determined by the commissioner, on an English language assessment instrument approved by the commissioner

provided, however, that no pupil shall be served in a bilingual or English as a second language education program pursuant to this Part for a period in excess of three years from the date of enrollment in school unless such period is extended by the commissioner with respect to an individual pupil in accordance with the provisions of subdivision 2 of section 3204 of the Education Law.

(b) Initial identification is the process followed to determine if the pupil is limited English proficient, at the time of a pupil's enrollment in the New York State public school system for the first time or at the time of a pupil's reentry into the New York State public school system with no available record of prior screening, using appropriate and unbiased English language assessment instruments approved by the commissioner.

(c) Annual English language assessment is the process followed to determine if a pupil with limited English proficiency continues to be limited English proficient, using appropriate and unbiased English language assessment instruments approved by the commissioner.

(d) English as a second language program shall mean a free-standing program of instruction composed of an English as a second language component, and content area instruction in English supported by English as a second language methodologies. Such instruction shall take into account the first language and culture of such pupils.

(1) The English as a second language component shall be designed to develop skills in understanding, speaking, reading, writing and communicating in English and shall be provided for a minimum of one unit of study or its equivalent.

(2) Content area instruction in English supported by English as a second language methodologies, employed in a systematic and structured way, shall be designed to develop cognitive skills of limited English proficient pupils.

(e) Bilingual education program shall mean a transitional program of instruction which includes an English as a second language component, content area instruction in the native language and English and a native language arts component. Such instruction shall take into account the first language and culture of such pupils.

(1) The English as a second language component shall be designed to develop skills in understanding, speaking, reading, writing and communicating in English.

(2) Content area instruction shall provide instruction in the native language and English designed to teach subjects to limited English proficient pupils.

(3) The native language arts component shall provide instruction in a language other than English, designed to develop communication skills, including those of listening, speaking, reading and writing, in a student's home language as well as an appreciation of the history and culture of the United States and the country of origin, through the study of literature. Such component shall be provided for a minimum of one unit of study or its equivalent.

(f) Exceptions.

(1) A school district, which is subject to a court order or is a party to a preexisting agreement with an appropriate Federal agency requiring programs substantially equivalent to or in excess of those required under these regulations, will not be required to comply with these regulations and will be in compliance with this Part as long as the district fully implements the court order or agreement and fulfills all other requirements of this Part which are not addressed by such court order or agreement.

(2) Subject to the approval of the commissioner, for the 1989-90 school year a school district may adopt a districtwide standard for the identification of pupils with limited English proficiency that is above the statewide reference point on an English language assessment instrument approved by the commissioner and at or below the 40th percentile on such instrument. A district seeking approval of such an expanded program shall provide an assurance that all pupils who meet the criteria specified in either section 154.2(a)(1) or section 154.2(a)(3)(i) of this Part will be provided services in accordance with this Part.

154.3 Program requirements for programs operating through June 30, 1990. The provisions of this section shall remain in force for programs operating through June 30, 1990, and shall be the basis for aid payable in the 1990-91 school year. In order to qualify for state aid for instruction provided to pupils with limited English proficiency, a school district shall meet the following criteria:

(a) Identification of eligible pupils. To be eligible for the program each pupil shall be identified, by use of an English language assessment instrument approved by the commissioner, as a pupil with limited English proficiency.

(b) Annual evaluation. A pupil's proficiency in the English language shall be measured, at least annually, in order to determine further participation in a program of bilingual education and/or English as a second language. The eligibility of a pupil for such instruction shall continue until such time as the pupil achieves a level of English language skills which will enable the pupil to perform successfully in classes in which instruction is given only in English.

(c) Types of programs.

(1) Each school district which has an enrollment of 20 or more eligible pupils with limited English proficiency of the same grade level assigned to a building, all of whom have the same native language which is other than English, shall provide such pupils with bilingual education programs, including instruction in English as a second language.

(2) Each school district which has any eligible pupils with limited English proficiency of the same grade level assigned to a building, but which does not have 20 of such pupils with the same native language which is other than English, shall provide a program of English as a second language, and may also provide a program of bilingual education to such pupils.

154.4 Board of education responsibility. Effective July 1, 1990 each board of education, including the board of each community school district of the city of New York, shall:

(a) adopt and implement a written policy concerning the education of pupils with limited English proficiency which shall include:

(1) its philosophy for the education of such pupils;

(2) administrative practices and procedures to:

(i) diagnostically screen pupils for limited English proficiency pursuant to Part 117 of this Chapter;

(ii) identify such pupils with limited English proficiency;

(iii) annually evaluate each such pupil including each such pupil's performance in content areas to measure the pupil's academic progress.

(3) assurance of access to appropriate instructional and support services for such pupils, including guidance programs pursuant to section 100.2(j) of this Chapter;

(4) assure that each such pupil has equal opportunities to participate in all school programs and extracurricular activities as non-limited English proficient pupils; and

(b) submit to the commissioner the following documents in the form and by the dates prescribed by the commissioner:

(1) a copy of such written policy;

(2) a report by building of pupils initially identified and annually evaluated as being limited English proficient in the preceding school year;

(3) a report by building of the number of teachers and support personnel providing services to pupils with limited English proficiency; and

(4) a description by building of the curricular and extracurricular services provided to pupils with limited English proficiency.

(c) distribute to the parents, or other persons in parental relation to pupils with limited English proficiency, school related information in English or when necessary the language they understand.

(d) submit to the commissioner the results of the annual evaluation of limited English proficient pupils, including test data and any additional data required by the commissioner, in the format specified by the commissioner.

(e) refer limited English proficient pupils, who are suspected of having a handicapping condition, to the committee on special education in accordance with Part 200 of this Title and assure that a bilingual multidisciplinary assessment is conducted in accordance with section 200.4(b) of this Title before the committee identifies pupils with limited English proficiency as having a handicapping condition.

154.5 District comprehensive plan and program requirements for districts claiming State aid for the operation of programs for pupils with limited English proficiency. The provisions of this section shall apply to programs operated in the 1990-91 school year and thereafter and shall be the basis for aid payable in the 1991-92 school year and thereafter. In such districts, all limited English proficient students shall be entitled to receive services in accordance with

subdivisions 2 and 2-a of section 3204 of the Education Law in a bilingual education or free-standing English as a second language program as defined in this section.

(a) In order to qualify for State aid for instruction provided to pupils with limited English proficiency, a school district, in addition to meeting the requirements of section 154.4 of this Part shall:

(1) submit to the department a district comprehensive plan to meet the educational needs of pupils with limited English proficiency.

(i) For the 1989-90 school year, the district plan shall be submitted no later than July 1, 1989, and shall:

(a) specify the instructional services to be provided;

(b) provide for the coordination of local, State and Federal funds;

(c) provide evidence that instruction is provided by personnel holding the appropriate certification; and

(d) provide any other information required by the commissioner relative to the planning, administration, funding or evaluation of the program.

(ii) For the 1990-91 school year and thereafter, such plan shall be submitted no later than September first of each year, and, in addition to the reporting requirements of section 154.4(b) of this Part, shall include a report of the number of limited English proficient pupils served, and a proposed budget for the operation of a State aided program. The plan shall:

(a) set forth the information and assurances specified in section 154.4 of this Part;

(b) specify the criteria used by the district to place limited English proficient pupils in appropriate bilingual or free-standing English as a second language programs;

(c) provide a description of the nature and scope of the bilingual and/or English as a second language services currently available to limited English proficient pupils;

(d) include an evaluation plan outlining the time schedule for data collection, approved assessment devices or techniques, and time schedule for the submission of data to the department in the format specified by the department;

(e) provide a description of the district and school level procedures for the management of the program, including: staffing, site selection, parental notification, coordination of funds, training and program planning; and

(f) provide an assurance that the district shall comply with the requirements of this Part and of the provisions of the Education Law governing programs for pupils with limited English proficiency and State aid for such programs.

(2) ensure that the provisions of section 3204 of the Education Law with respect to the instruction of limited English proficient pupils are adhered to.

(b) Types of programs.

(1) Bilingual Education Program. Each school district which has an enrollment of 20 or more pupils with limited English proficiency of the same grade level assigned to a building, all of whom have the same native language which is other than English, shall provide such pupils with bilingual education programs.

(2) English as a Second Language Program. Each school district which has pupils with limited English proficiency of the same grade level assigned to a building, but which does not have 20 of such pupils with the same native language which is other than English, shall provide either an English as a second language program, or a bilingual education program to such pupils.

(c) Support Services. Commencing with the 1990-91 school year, each school district with limited English proficient pupils participating in bilingual or free-standing English as a second language programs shall provide appropriate support services needed by such pupils to achieve and maintain a satisfactory level of academic performance. Such services may include, but need not be limited to, individual counseling, group counseling, home visits, and parental counseling. Where appropriate, such services shall be provided in the first language of the pupil and the pupil's parents or other persons in parental relation to the pupil.

(d) Transitional Services. Commencing with the 1990-91 school year, each school district shall ensure a transition for former limited English proficient pupils transferring from a bilingual or free-standing English as a second language program into an English mainstream program. Transitional services shall be provided for the first year after the pupil is placed in the English mainstream instructional program. Such pupils shall not be counted for purposes of limited English proficiency aid.

(e) In-service Training. Commencing with the 1990-91 school year, each school district with limited English proficient pupils shall provide in-service training to all personnel providing instruction or other services to such pupils in order to enhance their appreciation for the pupils' native languages and cultures and their ability to provide appropriate instructional and support services.

(f) (1) Parental Notification. The parents or other persons in parental relation to a pupil designated as limited English proficient shall be notified, in English and the language they understand, of their child's placement in an instructional bilingual or English as a second language program and their options as set forth in paragraphs (2) and (3) of this section. School districts offering programs to limited English proficient pupils shall make an effort to meet with the parents or other persons in parental relation to such pupils, at least twice a year, to help them understand the goals of the program and how they might help their children.

(2) The parents or other persons in parental relation to a pupil designated as limited English proficient shall have the option to withdraw their child from participation in an instructional bilingual education program, provided that:

(i) the parents or other persons in parental relation to a pupil designated as limited English proficient meet with the school principal along with the school or district supervisor of bilingual education to discuss and explain further the nature, purposes, educational values of the program and the skills required of personnel;

(ii) as a minimum such pupil shall participate in a free-standing English as a second language program.

(3) In a school district where the number of eligible pupils does not require the offering of a bilingual education program, parents or other persons in parental relation to a pupil identified as limited English proficient shall have the option of transferring their child to a school within the district

provided such program is available at such other school. A parent who chooses not to exercise the transfer option shall be informed that his or her child shall participate in a free-standing English as a second language program.

(g) No later than September first of each year, commencing September 1, 1990, each school district eligible for State aid for services provided to pupils with limited English proficiency in the preceding school year shall submit, in addition to the data required pursuant to section 154.4 of this Part, a fiscal report containing such information as the commissioner may prescribe, including but not limited to:

(1) the number of pupils with limited English proficiency served;

(2) an accounting of the expenditure of limited English proficiency aid to supplement the basic program for such pupils; and

(3) an evaluation of the results obtained from the limited English proficiency aid provided to the district.

(h) A summary of the final report of the district required pursuant to subdivision (g) of this section shall be included as part of the comprehensive assessment report.

(i) The commissioner shall provide an annual report to the Board of Regents.

(j) A pupil whose score on an English language assessment instrument as specified in section 154.2(a) of this Part is a result of a handicapping condition shall be provided special education programs and services in accordance with the individualized education program (IEP) developed for such pupil pursuant to Part 200 of this Title, and shall also be eligible for services pursuant to this Part when such services are recommended in the IEP. A pupil with a handicapping condition receiving services in accordance with the provisions of this section shall be counted as a pupil served for the purposes of computing limited English proficiency aid as well as being counted for public excess cost aid for children with handicapping conditions.

(k) Variances. The commissioner may grant a variance to a school or school district from any of the requirements of subdivision (b) of this section upon a finding that:

(1) the granting of a variance is consistent with Education Law, section 3204; and

(2) the granting of a variance will enable the school or school district to implement a program designed to provide excellence in education that is substantially equivalent to a program which meets all requirements of such subdivision.

April 1990

APPENDIX B

Home Language Questionnaires

The following language vrsions of the Home Language Questionnaire are attached:

- Chinese
- English
- French
- Haitian Creole
- Japanese
- Spanish

New York State Education Department
Division of Bilingual Education/
Bureau of School and Categorical Programs Evaluation

Albany, New York 12234

PARENT/GUARDIAN HOME LANGUAGE IDENTIFICATION QUESTIONNAIRE

紐約州教育廳雙語教育處

家長或監護人家用語言調查表

學區：_____ 學校：_____ 班級：_____

填表人與學生關係：_____ 母親 父親 監護人

學生姓名：_____

說明：請回答下面和你的孩子有關的問題

1. 孩子在剛開始說話時說的是	英語	國語	其他	_____
2. 家人在家裡最常說的是	英語	國語	其他	_____
3. 母親與孩子最常說的是	英語	國語	其他	_____
4. 父親與孩子最常說的是	英語	國語	其他	_____
5. 孩子與母親最常說的是	英語	國語	其他	_____
6. 孩子與父親最常說的是	英語	國語	其他	_____
7. 孩子與他的兄弟姐妹之間最常說的是	英語	國語	其他	_____
8. 孩子與他的朋友之間最常說的是	英語	國語	其他	_____

填表人簽名：_____

日 期：_____

* Chinese version of Parent/Guardian Home Language Identification Questionnaire

New York State Education Department
Division of Bilingual Education/Bureau of School and Categorical Programs Evaluation
Albany, New York 12234

PARENT/GUARDIAN HOME LANGUAGE QUESTIONNAIRE *

District: _____ School: _____ Class: _____

Relationship of Person Completing Survey ☐ Mother ☐ Father ☐ Guardian

Student Identification Number: _____

Directions: Circle the correct response for each of the following questions concerning your child.

1. What language did the child learn when s/he first began to talk?	English Other (Specify) _____
2. What language does the family speak in the home most of the time?	English Other (Specify) _____
3. What language does the mother speak to her child most of the time?	English Other (Specify) _____
4. What language does the father speak to his child most of the time?	English Other (Specify) _____
5. What language does the child speak to his/her mother most of the time?	English Other (Specify) _____
6. What language does the child speak to his/her father most of the time?	English Other (Specify) _____
7. What language does your child speak to his/her brothers and sisters most of the time?	English Other (Specify) _____
8. What language does your child speak to his/her friends most of the time?	English Other (Specify) _____

_____
Signature (of person completing survey)

_____
Date

Adapted from sample survey found in A Manual for Community Representatives of the Title VI Lau Steering Committee, published September 1976 by the Institute for Cultural Pluralism, Lau General Assistance Center, San Diego State University, San Diego, CA 92182.

*Please provide in the appropriate language.

New York State Education Department
Division of Bilingual Education/Bureau of School and Categorical Programs Evaluation
Albany, New York 12234

QUESTIONNAIRE D'IDENTIFICATION DE LA LANGUE MATERNELLE*

ARRONDISSEMENT: _____ ÉCOLE: _____ NIVEAU: _____

Personne Qui Répond Aux Questions: ☐ Mère ☐ Père ☐ Autre

Numéro D"Identité de L'Elève: _____

Soulignez la réponse correcte à chacune des questions suivantes sur votre enfant.

1.	Quand l'enfant a commencé à parler, quelle langue est-ce qu'il/elle a apprise?	Anglais	Français
2.	Chez-vous, quelle langue est-ce que vous parlez d'habitude?	Anglais	Français
3.	Quelle langue est-ce que la mère utilise d'habitude quand elle parle avec son enfant?	Anglais	Français
4.	Quelle langue est-ce que le père utilise d'habitude quand il parle avec son enfant?	Anglais	Français
5.	Quelle langue est-ce que l'enfant utilise d'habitude quand il/elle parle avec sa mère?	Anglais	Français
6.	Quelle langue est-ce que l'enfant utilise d'habitude quand il/elle parle avec son père?	Anglais	Français
7.	Quelle langue est-ce que votre enfant utilise quand il/elle parle avec ses frères et soeurs?	Anglais	Français
8.	Quelle langue est-ce que l'enfant utilise d'habitude avec ses amis?	Anglais	Français

_____
La signature (de celui/celle qui a répondu aux questions)

_____
La date

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* French version of Parent/Guardian Home Language Identification Questionnaire

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New York State Education Department
Division of Bilingual Education/Bureau of School and Categorical Programs Evaluation
Albany, New York 12234

SONDAY IDANTIFIKASYON LANG PARAN/GADYEN KAY*

Distrik: _____ Lekòl: _____ Klas: _____

Lyen ak moun ki konplete sonday la ☐ Manman ☐ Papa ☐ Gadyen

Nimero Idantifikasyon Elèv la: _____

Direksyon: Sèke bon repons lan pou chak nan keksyon sa yo ki konsènen pitit ou.

1.	Kilès lang timoun nan te aprann Lèli te fenk ap pale?	Anglè	Kreyòl Ayisyen
2.	Nan fanmi an, kilès lang yo pale pi plis?	Anglè	Kreyòl Ayisyen
3.	Kilès lang manman pale ak timoun nan pi plis?	Anglè	Kreyòl Ayisyen
4.	Kilès lang Papa pale ak timoun nan piplis	Anglè	Kreyòl Ayisyen
5.	Kilès lang timoun nan pale ak manman li pi plis?	Anglè	Kreyòl Ayisyen
6.	Kilès lang timoun nan pale ak papa li pi plis?	Anglè	Kreyòl Ayisyen
7.	Kilès lang timoun nan pale ak frè sè li yo pi plis?	Anglè	Kreyòl Ayisyen
8.	Kilès lang timoun nan pale ak zanmi li yo pi plis?	Anglè	Kreyòl Ayisyen

_____
Siyati moun ki konplete sonday la

_____
Dat

* Haitian/Creole version of Parent/Guardian Home Language Identification Questionnaire

The University of the State of New York
The State Education Department
Division of Bilingual Education/Bureau of School and Categorical Programs Evaluation
Albany, New York 12234

父母／保護者向け　家庭言語調査

学区：＿＿＿＿＿＿＿＿＿＿　学校：＿＿＿＿＿＿＿＿＿＿　学級：＿＿＿＿＿＿

記入者と生徒の関係　☐母親　☐父親　☐保護者

生徒ID番号：＿＿＿＿＿＿＿＿

指示　あなたのお子様の場合、下記の質問に該当する回答を ⬭ で囲んでください。

1. お子様が話し始めた言葉は何語でしたか。	英語	日本語
2. 家庭内でご家族がふつう使う言葉は何語ですか。	英語	日本語
3. お母様はお子様にふつう何語で話しますか。	英語	日本語
4. お父様はお子様にふつう何語で話しますか。	英語	日本語
5. お子様がお母様にふつう何語で話しますか。	英語	日本語
6. お子様はお父様にふつう何語で話しますか。	英語	日本語
7. お子様は兄弟姉妹とふつう何語で話しますか。	英語	日本語
8. お母様は友達とふつう何語で話しますか。	英語	日本語

＿＿＿＿＿＿＿＿　＿＿＿＿＿＿＿＿
記入者の署名　日付

Adapted from sample survey found in A Manual for Community Representatives of the Title VII Lau Steering Committee, published September 1976 by the Institute for Cultural Pluralism, Lau General Assistance Center, San Diego State University, San Diego, CA 92182.

* Japanese version of Parent/Guardian Home Language Identification Questionnaire

La Universidad del Estado de Nueva York
Departamento de Educación del Estado
División de Educación Bilingüe/Negociado de Evaluación de Programas Escolares y Categóricos
Albany, New York 12234

ENCUESTA PARA PADRES/GUARDIANES PARA LA IDENTIFICACIÓN DEL IDIOMA DEL HOGAR*

Distrito _____ Escuela _____ Clase _____

Parentesco de la persona llenando la encuesta ☐ Madre ☐ Padre ☐ Guardián Fecha _____

Número de identificación del estudiante _____

Instrucciones: Circule la respuesta correcta para cada una de las preguntas relacionadas con su niño o niña.

1. ¿Qué idioma aprendió el niño(a) cuando empezó a hablar?	Inglés	Español
2. ¿En qué idioma habla la familia la mayor parte del tiempo?	Inglés	Español
3. ¿En qué idioma le habla la madre al niño(a) la mayor parte del tiempo?	Inglés	Español
4. ¿En qué idioma le habla el padre al niño(a) la mayor parte del tiempo?	Inglés	Español
5. ¿En qué idioma le habla el niño(a) a la madre la mayor parte del tiempo?	Inglés	Español
6. ¿En qué idioma le habla el niño(a) a su padre la mayor parte del tiempo?	Inglés	Español
7. ¿En qué idioma le habla el niño(a) a sus hermanos(as) la mayor parte del tiempo?	Inglés	Español
8. ¿En qué idioma le habla el niño(a) a sus amigos(as) la mayor parte del tiempo?	Inglés	Español

_____
Firma (de la persona llenando el informe)

_____
Fecha

Adaptado de un ejemplo de encuesta encontrado en "A Manual for Community Representatives of the Title VI Lau Steering Committee", publicado en septiembre de 1976 por el Instituto para el Pluralismo Cultural, Lau General Assistance Center, San Diego, CA 92182

* Spanish version of Parent/Guardian Home Language Identification Questionnaire